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as amended by Acts 1916, c. 491, does not empower commissioners to assess property not charged with a tax by some proper tribunal.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 79.]

6. Constitutional Law (§ 29*)—Constitutional Mandate that Taxes Shall Be Levied Does Not in Itself Impose a Tax.—The mere mandate of the Constitution that taxes shall be laid on certain property by the General Assembly or board of supervisors does not of itself impose the tax, though failure to do so may be a breach of official duty, so that some positive action to that end must be taken by the legislative body to levy a tax.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 79.]

Appeal from Circuit Court, Sussex County.

Upon petition for rehearing. Petition denied.

For former opinion, see 106 S. E. 384.

Thos. H. Howerton, of Waverly, and *Buford & Peterson*, of Lawrenceville, for appellants.

Geo. Bryan, of Richmond, and *Wm. B. Cocke*, of Stony Creek, for appellees.

SMITH *v.* CITY OF NEWPORT NEWS.

March 17, 1921.

[106 S. E. 521.]

Error to Corporation Court of Newport News.

Proceedings by one Smith against City of Newport News. Judgment was rendered by the corporation court of the City of Newport News upon appeal from a finding of the State Industrial Commission, and plaintiff brings error. Dismissed.

A. C. Garrett, of Newport News, for plaintiff in error.

Lett & Massie, of Newport News, for defendant in error.

BOARD OF SUP'RS OF LOUISA COUNTY *v.* BIBB,

Commonwealth's Atty.

April 6, 1921.

[106 S. E. 684.]

Counties (§ 174*)—States (§§ 116, 119*)—Statutes Authorizing County Bond Issue to Improve State Highways, and Providing for Reimbursement of County by State, Held Constitutional.—Acts 1920, c. 213, authorizing bond issue by county for improvement of state highways, and Acts 1920, c. 184, authorizing the county to improve a

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

section of the state highway system, and providing for reimbursement of county by state for amount expended therefor, held not violative of Const. § 184, as it existed at time of their enactment, prohibiting the state from contracting debts for other than specified purposes, or of section 185, prohibiting state from assuming indebtedness of any county, or of section 187, requiring every law creating a debt to provide for a sinking fund for its payment.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 683, et seq.]

Proceeding by W. C. Bibb, Commonwealth's Attorney, against the Board of Supervisors of Louisa County. Judgment for plaintiff, and defendant brings error. Reversed.

NEW YORK, P. & N. R. Co. v. CHANDLER.

Jan. 20, 1921.

[106 S. E. 684.]

1. Appeal and Error (§§ 525 (1), 538*)—Instructions are Not Part of Record unless Made So by Bill of Exceptions or Certificate.—Instructions are no part of the record in an action at law unless made so by bill of exceptions or certificate in accordance with the statutory requirements on that subject (Acts 1916, c. 416, now Code 1919, § 6252; Acts 1916, c. 406, now Code 1919, § 6253), and instructions could not be certified after 60 days under Code 1919, § 6341, which authorizes selections from the record as already completed.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 603.]

2. Carriers (§ 177 (3)*)—Loss Suffered by Reason of Delay Held within Carmack Amendment, Rendering Initial Carrier Liable.—Loss for consequential damage which shipper suffered of the whole of the value of potatoes by reason of his loss of the sale of them which he had made at a stipulated price, caused by negligent delay in the transportation, followed by the subsequent conversion of the goods by the wrongful sale of them by the terminal carrier, was within the operation of the Carmack Amendment (U. S. Comp St. §§ 8604a, 8604aa) which makes the initial carrier liable for any loss, damage, or injury to such property, etc.

[Ed. Note.—For other cases, see 15 Va.-W. Va. Enc. Dig. 155.]

3. Carriers (§ 98*)—Liable for Damages Resulting from Delay.—If damage results from failure, without good cause, to deliver goods at their destination within a reasonable time, the carrier is liable for such damage, since the law implies a contract that goods shall be delivered within a reasonable time in absence of special agreement.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 681.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.